

**ENTERED**

November 22, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

WINNETT KNOX,

Plaintiff,

VS.

CRYSTAL LEDBETTER, MICHAEL  
JOHN, JEFFREY MILLER, and USDOJ  
– EXECUTIVE OFFICE OF  
IMMIGRATION REVIEW,

Defendants.

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Civil Case No. 4:22-CV-03026

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the October 11, 2023 Memorandum and Recommendation (“M&R”) prepared by Magistrate Judge Peter Bray. (Dkt. No. 26). Judge Bray made findings and conclusions and recommended that Defendants’ Motion to Dismiss Plaintiff’s Complaint, (Dkt. No. 14), be denied as moot; and that Defendants’ Motion to Dismiss Plaintiff’s Amended Complaint, (Dkt. No. 21), be granted. (Dkt. No. 26). Judge Bray denied Plaintiff’s Motion for Leave to Amend, (Dkt. No. 23). (Dkt. No. 26).

The Parties were provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). On October 25, 2023, Plaintiff filed a “response” to the M&R. (Dkt. No. 27). Plaintiff concurs with Judge Bray’s recommendation that the case be dismissed for lack of jurisdiction but objects to the Executive Office for Immigration Review’s representation by an attorney who is

employed by the U.S. Attorney's Office. (*Id.* at 3.) Plaintiff did not object to the denial of leave to amend.

In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." After conducting this de novo review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

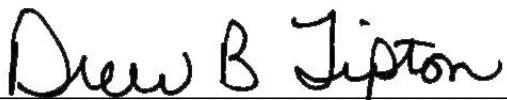
The Court has carefully considered de novo those portions of the M&R to which objection was made and reviewed proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court.

It is therefore ordered that: Judge Bray's M&R (Dkt. No. 26) is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court; and

- (1) Defendants' Motion to Dismiss Plaintiff's Complaint, (Dkt. No. 14), is **DENIED AS MOOT**; and
- (2) Defendant's Motion to Dismiss Plaintiff's Amended Complaint, (Dkt. No. 21), is **GRANTED**.

It is SO ORDERED.

Signed on November 22, 2023.

  
DREW B. TIPTON  
UNITED STATES DISTRICT JUDGE